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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/666,055

09/22/2003

Michael Perri

6589

7590

01/21/2005

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CANADA

EXAMINER

NGUYEN, TAI T

ART UNIT

PAPER NUMBER

2632

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,055

Applicant(s)

PERRI, MICHAEL *CA*

Examiner

Tai T. Nguyen

Art Unit

2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 9-26 and 28-31 is/are rejected.
- 7) ☒ Claim(s) 4, 8 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "the remote control" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 10 is objected to because of the following informalities: "signal" should be corrected as ----signal.----. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said sign signaling device" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "said target zone" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "said warning signal" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "signaling means" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claim 25 recites the limitation "said sign signaling device" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2, 11, 23, 25-26, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Durley et al. (US 5,493,269).

Regarding claims 1-2, 11, 23, 25-26, and 28, Durley et al. disclose a pedestrian present indicator mountable to a vehicle for warning nearby traffic about the presence of a pedestrian within a predetermined target zone comprising:

a vehicle (10) defining a vehicle front end, rear end, a pair of the vehicle side ends, and a vehicle longitudinal axis (figure 1);

a vehicle electric circuitry (figures 5-7G and 9) powered by a vehicle battery (32);

an vehicle ignition switch (100, figure 2);

a signaling device (70, figure 2) comprising:

a sensing means (56, 58, 60, and 62) mounted to the vehicle for sensing the presence of the pedestrian (figure 1) upon the pedestrian being positioned within a target zone (106 and 108, figure 2) and a signaling means (76) coupled to the sensing means for emitting a warning signal perceivable by the nearby traffic upon the sensing means sensing the presence of the pedestrian within the target zone (col. 16, line 27 through col. 18, line 53).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3, 5-7, 9-10, 12-22, 24, and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Durley et al. (US 5,493,269).

Regarding claims 3, 5-7, 9-10, 12-20, 29-31, Durley et al. disclose everything claimed except the specific predetermined distance, specific type of sensing means, shielding means, signaling means, and number of signaling means. The particular predetermined distance, type of sensing means, shielding means, signaling means, and number of signaling means would have been an obvious design consideration based on the desired sensitivity, visibility, and necessary reliability of the system.

Regarding claims 21-22, Durley et al. disclose the ignition switch (100) operably connected with the signaling means for selective control (col. 5, line 60 through col. 6, line 52). It would have been obvious to one of ordinary skill in the art at the time the invention was that the duration period could have been controlled by the signaling means in order to ensure pedestrian safety.

Regarding claim 24, Durley et al. disclose everything claimed except the remote operation of sensing and signaling means. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use remote operation for the sensing and signaling means in order to facilitate control operation.

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Allowable Subject Matter

9. Claims 4, 8, and 27 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Burch (US 5,132,662) and Agnew (US 6,601,669).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tai T. Nguyen whose telephone number is (571) 272-2961. The examiner can normally be reached on Monday-Friday from 7:30am-5:00pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tai T. Nguyen
Examiner
Art Unit 2632

January 13, 2005